IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24277 of 2006

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

HEENA ENGINEERING CO.LTD. - Petitioner(s)
Versus
DAHYALAL KASTURBHAI PANCHAL - Respondent(s)

==========

Appearance :
MR HRIDAY BUCH for Petitioner(s) : 1,
MS LUCINTA S RAJ for Respondent(s) : 1,

==========

CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 05/02/2007

ORAL JUDGMENT

Heard the learned advocates.

RULE returnable today. Ms.Raj waives service of rule.

With the consent of the learned advocates, the petition is heard and disposed of today.

The petitioner, Heena Engineering Company Limited challenges the judgment and award dated 31st May, 2006 passed by the Labour Court, Ahmedabad in Reference (LCA) No.1269/2000. By impugned award, the petitioner is ordered to reinstate the respondent-workman in service and to give benefit of continuity in service and the back-wages.

Mr.Buch has submitted that from the very inception the petitioner had disputed that the respondent was ever employed by the petitioner. Nevertheless, the said defense has not been considered and decided by the learned Judge. He has submitted that the documents produced by the respondent in support of his claim are ex-facie sham and bogus and are not reliable piece of evidence. He has submitted that the petitioner did produce necessary evidence to contest the claim of the respondent. However, as the petitioner did not examine itself, the learned Judge has not considered the defense of the petitioner and has made award in favour of the respondent as aforesaid.

On the facts and in the circumstances of the case, the petition is allowed. The impugned judgment and award dated 31st May, 2006 passed in Reference (LCA) No.1269/2000 is quashed and set-aside. The Reference is restored on the files of the Labour Court, Ahmedabad, to be heard and decided afresh. Both the parties will be at liberty to lead evidence.

This order is made on condition that the sum of Rs.5,000=00 deposited in this Court will be paid to the respondent-workman as cost of this petition. The Registry will remit the said amount to the respondent-workman.

It is further directed that the petitioner-Industry will appear before the Court below and attend the matter scrupulously without fail. The petitioner shall not ask for avoidable adjournment. Both the parties will approach the Court below for early hearing of the Reference.

Rule is made absolute.

(Ms. R.M.Doshit, J.)

/moin